IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No.19902 of 2001

Date of Decision: January 07, 2008

Harbhajan Singh .....Petitioner

Versus

Guru Nanak Dev University and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Namit Kumar, Advocate for the petitioner.

Mr.Piyush Kant Jain, Additional AG Punjab for respondent No.2.

S. D. ANAND, J.

1. As culled out from the pleadings-related material obtaining on the file, the petitioner was directly appointed by respondent No.1 – Guru Nanak Dev University as an Assistant Registrar and he joined that post on 23.4.1973. The fact that he was functioning prior thereto on a post fairly junior in hierarchy in the Punjab University, Chandigarh and also the fact that he had also been in the employment thereafter at Punjabi University, Patiala is not at all relevant for determination of the controversy. The only relevant date, for determination of the present controversy, is 23.4.1973 because it is on that date that the petitioner joined employment of respondent No.1 – Guru Nanak Dev University as Assistant Registrar. The pure and simple plea of the petitioner is that the grant of higher salary to

Jasbir Singh (who was promoted as Assistant Registrar on 22.11.1976) is inappropriate and violative of the basic principles of jurisprudence to the effect that a junior cannot draw wages higher than a senior. He made a number of representations in the context, but nothing fruitful emerged at the hands of the University.

2. The respondents resisted the petition by averring that the petitioner and Jasbir Singh aforementioned are from different cadres and the grant of higher pay to Jasbir Singh cannot be faulted inasmuch as his salary was raised by the grant of selection grade during the period he was functioning as PA to Vice-Chancellor.

3. It is neither here nor there for the respondents to aver that higher salary came to be granted to Jasbir Singh when he was PA to the Vice Chancellor. All that this Court is concerned, at the moment, is the fact that while the petitioner was appointed as an Assistant Registrar on 23.4.1973; Jasbir Singh was promoted as Assistant Registrar on 22.11.1996. Whatever salary they may have been drawing prior thereto is not relevant for purposes of determination of the present controversy.

4. There is plethora of law on the point that a senior employee of a cadre discharging similar duties, cannot be provided lesser pay/pay scale than his junior unless there are some cogent reasons therefor. One may visualise an eventuality where a junior is entitled to the higher salary on account of his academic achievement or on account of his having undergone vasectomy etc. In that eventuality, a senior would not be able to have a grievance. However, in the absence thereof, the basic principle of service jurisprudence would ordain that a junior cannot draw a salary higher than his senior.

5. In this case, reference with advantage, may be made to Ishwar Chand Walia Vs. State of Haryana, 2001(2) SCT 809 and Dr.S.M.Ilyas and others Vs. Indian Council of Agricultural Research and others, AIR 1993 Supreme Court 384.

6. In the present case, Jasbir Singh concededly joined the present placement long after the joining of the petitioner.

7. In the light of foregoing discussion, I have no hesitation in holding that the petition deserves to succeed. The petition stands allowed accordingly. The impugned order Annexure P9 shall stand quashed. The respondents are directed to fix the pay of the petitioner in the light of the observations made by this Court. The needful shall be done and the arrears be paid within one month from today.

(S. D. ANAND)
JUDGE

January 07, 2008
SRM

Note: Whether referred to reporter ? Yes/No